

Clean Copy of 2-7-05 Draft Rules

Section 1. Applicability

(a) These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide IC 12-23-14 court-administered alcohol and drug services to or for persons who are ordered by the court to participate in the program.

(b) Any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide any court-administered alcohol and drug service to or for persons ordered by the court to participate in the program must submit to the requirements for certification.

Section 2. REPEALED

Section 3. Approval Requirements

(a) No person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide court-administered alcohol and drug services to or for persons who are ordered by the court to participate in the program and whose services are within the scope of IC 12-23-14, shall offer, advertise, deliver, or provide services without first obtaining provisional approval or a certificate of approval from the Indiana Judicial Center.

(b) A court-administered alcohol and drug services program may not provide direct substance abuse treatment services for which a certificate of approval is required by 440 IAC 4.4-2 unless:

- (1) the court makes a written determination pursuant to IC 12-23-14-7 that existing community resources are inadequate to respond satisfactorily to the demand from the court for specific substance abuse treatment or rehabilitation services; and
- (2) the court-administered alcohol and drug services program applies for and receives a certificate of approval pursuant to 440 IAC 4.4-2 for each category of substance abuse treatment service to be provided by the court.

Section 4. Definition of Terms

The following terms, when used in these rules, shall have the meanings below unless the context clearly indicates a different meaning:

"Addiction treatment services " means a broad range of planned and continuing care, treatment, and rehabilitation, including, but not limited to, counseling, psychological, medical, and social service care designed to influence the behavior of individual alcohol abusers or drug abusers, based on an individual treatment plan.

"Alcohol abuse" means use of alcohol to an extent that harms the individual or society.

"Alcohol and drug services program" means an entity that provides a service for persons charged with or convicted of an infraction, a misdemeanor, or a felony and that provides substance abuse assessment, intervention, education, referral, treatment, or rehabilitation pursuant to IC 12-23-14 under the operation of a court or under a private contract between a court and a contractor.

"Assessment" means a process of evaluating and determining an appropriate level of intervention based on information obtained from the client in a personal interview and from other sources, which may include substance abuse screening instruments.

"Assessment staff person" means a member of the assessment staff who is working towards but has not yet obtained assessment staff status.

"Assessment staff status" means a program staff member has completed the initial requirements, as well as any continuing education requirements if applicable, as set forth in the rules, that make the staff member eligible to conduct assessments on an ongoing basis.

"Case management" means goal-oriented activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual alcohol and drug program clients.

"Case termination" means following the procedure for terminating a client's court imposed obligation to participate in the services of an alcohol and drug services program.

"Certification areas" means the areas of compliance with the statutes and rules that are evaluated during a certification review. They include administration, program management, clinical standards, facilities, fiscal management, and personnel management.

"Certified organization" means an applicant that has successfully applied for and has received a certification of approval from the Indiana Judicial Center.

"Client" means any person who has applied for and has received services in the program. This term does not include persons whose only contact with the program has been through telephone.

"Client intake" means the administrative process for admission to a program.

"Cognitive-based" means an approach to substance abuse education that attempts to reduce the desire to use alcohol or drugs by weakening the beliefs that promote risky use and teaching ways to modify behavior.

"Court-administered alcohol and drug service" means the same as "alcohol and drug services program."

"CSAMS" means court substance abuse management specialist. It is a designation and a credential awarded to staff members of alcohol and drug services programs that meet established professional standards and testing requirements.

"Documentation" means a written record acceptable as evidence to demonstrate compliance with these rules.

"Drug" includes any controlled substance as defined in IC 35-48-1-9 and any drug as defined in IC 9-13-2-49.1.

"Drug abuse" means the use of drugs or harmful substances to an extent that harms the individual or society.

"Education, alcohol and drug" means cognitive and affective presentation of topics relevant to alcohol and drug abuse, the nature of alcohol and other drug dependence, the role of self-help groups in recovery, personal support systems, and relapse prevention.

"Eligibility determination" means, in the case of an alcohol and drug services program, a procedure for determining a prospective client's eligibility for admission to the program, including a review of the prospective client's legal eligibility under IC 12-23-5-7, a review of eligibility under court-imposed rules, and recorded entries of the court's finding in each case.

"Evaluation" means a systematic process used to assess program outcomes in light of identified goals and objectives.

"Governing body" means an individual, board, or other entity that has ultimate responsibility for the management, operation and control of the program.

"Harmful substance" means any substance used by an individual to produce the effect of a controlled substance, although the substance is not classified as a controlled substance under IC 35-48 or as a drug under IC 9-13-2-49.1.

"Individual service contract" means a written contract between a client and an alcohol and drug services program, appropriate to meet the identified needs of the client, which specifies goals, activities and services required as determined through a process of assessment.

"Policy" means a statement of the principles that guide and govern the activities, procedures, and operations of a program.

"Procedure" means a series of activities designed to implement program goals or policy.

"Professional staff member" means a person hired as an employee, contractor, or volunteer,

to perform program management, client assessment, or case management.

"Program" means any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide court-administered alcohol or drug services to persons who are ordered by the court to participate in the program.

"Program director" means the administrative head or person responsible for the technical and programmatic aspects of the program. This person should provide direct supervision of the day-to-day aspects of program operation.

"Service" means the broad range of planned care, including intervention, diagnostic evaluation, referral, case management, and monitoring, which may be extended to program clients and which influences the behavior of such individuals toward identified goals and objectives.

"Substance" means any drug, controlled substance, or alcohol.

"Substance abuse" means the use of alcohol or other drugs to an extent that harms the individual or society.

"Volunteer" means a person who, without direct financial remuneration, provides ongoing services to the program.

Section 5. REPEALED

Section 6. Compliance

(a) In order for a program of alcohol or drug abuse services to secure and retain a certificate of approval, it must demonstrate compliance with the standards imposed by these rules in the following manner:

- (1) The program must comply with all of the standards for a court-administered program.
- (2) A program that demonstrates compliance with all the standards for a court-administered program shall be issued a certificate of approval that is valid for four (4) years from the date of issue, unless otherwise revoked.

(b) A program shall be considered to be in compliance with a standard only when all requirements contained in the standard have been met.

(c) A program must also comply with all applicable federal and state laws.

Section 7. Initial Certification - Application and Procedures

(a) A court with misdemeanor jurisdiction in a city or county that proposes to establish a court-administered alcohol and drug services program under IC 12-23-14 must accomplish the following to become certified:

- (1) submit a standard application form and other materials required under subsection (f), to the Indiana Judicial Center;
- (2) obtain a written statement from the Indiana Judicial Center under subsection (h) approving the establishment of the program and its plans for operation;
- (3) become an established court-administered alcohol and drug services program by obtaining approval from the legislative and appropriating body;
- (4) obtain a provisional certificate of approval from the Indiana Judicial Center under subsection (l); and
- (5) obtain a four (4) year certificate from the Indiana Judicial Center under subsection (m).

(b) The sponsoring court must have the written statement from the Indiana Judicial Center described in subsection (h), approving the establishment of the program before the court may do either of the following:

- (1) submit a petition for approval of the program to the legislative and appropriating body from which the court derives its funds; or
- (2) set and require the assessment and collection of fees for deposit in appropriate accounts or funds pursuant to IC 12-23-14-16 and directives and guidelines of the state board of accounts.

(c) An established court-administered alcohol and drug services program may not begin the delivery of the client-related services authorized by IC 12-23-14 until the sponsoring court has received a provisional certificate of approval under subsection (l) or certification under subsection (m).

(d) An applicant seeking initial approval shall request an application form from the Indiana Judicial Center.

(e) The Indiana Judicial Center will forward to the applicant a standard initial application form.

(f) The applicant shall submit the following to the Indiana Judicial Center:

- (1) a letter requesting approval of the establishment of a court-administered alcohol and drug services program;
- (2) the completed application form and any supporting documents; and
- (3) a policies and procedures manual developed in accordance with these rules.

(g) Upon receipt of all required documents, the Indiana Judicial Center will review the materials submitted. The Indiana Judicial Center may conduct an on-site visit to determine whether all requirements for certification have been met. The Indiana Judicial Center may offer recommendations or suggested corrections as are necessary and appropriate.

(h) The Indiana Judicial Center must determine if a sponsoring court's request for approval of the establishment of a court-administered alcohol and drug services program should be granted or denied. If the Indiana Judicial Center finds that the applicant is in compliance with all applicable requirements, the Indiana Judicial Center must provide the applicant with a written statement approving the establishment of the court's alcohol and drug services program and the plans for its operation. The Indiana Judicial Center may deny the request for approval for any reason enumerated in section 11. If the Indiana Judicial Center determines that the request for approval of the establishment of a program should be denied, the Indiana Judicial Center must observe the procedures required in section 10 for denial of an application for certification.

(i) After a sponsoring court has received a written statement from the Indiana Judicial Center approving the establishment of the court's alcohol and drug services program and the plans for its operation, the court may then petition the legislative and appropriating body from which it derives its funds for final approval of the proposed program. Upon approval by the legislative and appropriating body, by written order or resolution, the court-administered alcohol and drug services program is established. Upon establishment of the program, the sponsoring court:

- (1) shall establish such procedures as are required by IC 12-23-14 and directives and guidelines of the state board of accounts concerning the receipt of, accountability for, and disbursement of fees collected and other revenue or monies received pursuant to IC 12-23-14-16; and
- (2) may set and require the assessment and collection of the fees authorized by IC 12-23-14-16.

(j) The Indiana Judicial Center may revoke the approval of the establishment of a court-administered alcohol and drug services program for any of the following reasons:

- (1) any reason enumerated in section 13 as a reason for revoking or setting aside a certificate; or
- (2) failure of a sponsoring court to receive certification for its court-administered alcohol and drug services program within one (1) year from the date that the legislative and appropriating body for the sponsoring court approved the establishment of the program.

(k) Whenever the Indiana Judicial Center determines that any reason exists justifying the revocation of the approval of the establishment of a court-administered alcohol and drug services program, the Indiana Judicial Center shall observe the procedures required in section 12 for the revocation of certification. The revocation of a certificate to provide services as a court-administered alcohol and drug services program shall also serve as revocation of the approval by the Indiana Judicial Center to establish the program.

(l) The Indiana Judicial Center may issue a provisional certificate of approval authorizing the program to begin the delivery of services after the program's application has been favorably reviewed and the site visit has been made. Provisional approval is valid for one hundred eighty (180) days of operation during which the Indiana Judicial Center will review the program's actual delivery of services and recordkeeping practices.

(m) Except as provided for in subsections (h) and (j), the Indiana Judicial Center shall approve a properly completed and documented application for the establishment of a court-administered alcohol and drug services program and its plans for operation and provide the sponsoring court with a written statement of its approval if the court has demonstrated all of the following:

- (1) The services required to be performed by a court-administered alcohol and drug services program by IC 12-23-14 and these rules will be provided.
- (2) Based on the program's policies, procedures, practices, and staff, the program has the capability to provide the services proposed.
- (3) Adequate revenues and other resources will be provided to support the program and its services.
- (4) The services of the program will be delivered through methods likely to assure that clients of the program will benefit.
- (5) The court and its program will be operated in compliance with the requirements of IC 12-23-14 and these rules and other applicable federal and state laws.

(n) After all requirements in subsection (m) have been met by the applicant, the Indiana Judicial Center shall issue a certificate of approval. The certificate is valid for a period of four (4) years.

(o) The Indiana Judicial Center may issue a one (1) year certificate of approval if the result of the initial certification review is that:

- (1) one (1) or more certification areas are rated unsatisfactory; and
- (2) continued program operations do not appear to present an imminent danger to the welfare of the program's clients or to public health or safety.

To continue operation beyond one (1) year, a program with a one (1) year certificate must under go another full certification review within one (1) year from the date the certificate is issued.

Section 8. Recertification - Application and Procedures

(a) The program must follow the procedures described in this section to initiate a recertification review and obtain recertification.

(b) Not less than one hundred twenty (120) days prior to the actual expiration date of the certificate the program director must do the following:

- (1) notify the Indiana Judicial Center that the program intends to apply for recertification; and
- (2) request an application for recertification.

(c) The Indiana Judicial Center will schedule dates for a recertification review and forward to the applicant a standard application for recertification form.

(d) The program must submit the completed application along with any supporting documents and the program's updated policies and procedures manual to the Indiana Judicial Center at least thirty (30) days before the program's scheduled certification review date.

(e) Recertification review may include evaluation of each of the following:

- (1) the program's compliance with IC 12-23-14;
- (2) the program's compliance with these rules;
- (3) the number, qualifications, and abilities of program staff.
- (4) the qualifications and abilities of any contractor that provides services to the program or its clients, and the contractor's compliance with the terms of the contract;
- (5) the qualifications and abilities of any treatment provider that provides treatment services to the program's clients and the treatment provider's compliance with the terms of the provider referral agreement;
- (6) the program's process of obtaining client evaluations of program services and the program's response to client suggestions; and
- (7) any other issues or subjects that the Indiana Judicial Center determines are relevant to the review.

(f) Upon completion of the recertification review, the Indiana Judicial Center may provide an executive summary of the review to the supervising judge and any program staff the judge wishes to have present. Not later than sixty (60) days after completion of the recertification review the Indiana Judicial Center must send a final report to the supervising judge and program director.

(g) When the program has satisfied the requirements of this section, and the Indiana Judicial Center determines that all standards required by these rules have been met, the Indiana Judicial Center must issue a new certificate for a period of four (4) years, in accordance with the requirements of section 6.

(h) The Indiana Judicial Center may issue a one (1) year certificate of approval if the result of the recertification review is that:

- (1) one (1) or more certification areas are rated unsatisfactory; and
- (2) continued program operations do not appear to present an imminent danger to the welfare of the program's clients or to public health or safety.

To continue operation beyond one (1) year, a program with a one (1) year certificate must under go another full certification review within one (1) year from the date the certificate is issued.

Section 9. Notice of Change

(a) Any applicant or holder of a certificate of approval shall give written notice to the Indiana Judicial Center of any change of ownership, supervising judge, program director, program name, type of program, or location. Notice of the change shall be submitted to the Indiana Judicial Center not later than thirty (30) days after the change takes effect. The Indiana Judicial Center may require a new

application, site visit, or full certification review within six (6) months of the effective date of the change.

(b) Failure of any applicant or holder of a certificate of approval to comply with subsection (a) may result in the certificate of approval being suspended or revoked.

Section 10. Denial of Application for Certification or Recertification

(a) The Indiana Judicial Center may deny the request for approval of an application for certification or recertification of a program for any reason enumerated in section 11. If the Indiana Judicial Center determines that a request for certification or recertification of a court alcohol and drug program should be denied, the Indiana Judicial Center must follow the procedures required in this section.

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to deny the application. The notice of intention to deny must contain all of the following information:

- (1) a brief statement explaining the reasons for the denial;
- (2) a statement that the decision to deny the application will become final unless the supervising judge submits written objections to the Indiana Judicial Center, within thirty (30) days, stating why the denial should not become final;
- (3) if the supervising judge submits objections to the proposed denial during the thirty (30) days specified in subdivision (2), the court program's current certificate remains in effect, except in extraordinary circumstances, until the conclusion of negotiations and hearings; and
- (4) in extraordinary circumstances, the Indiana Judicial Center may limit or deny this period of extension if it determines that continued certified court program operations present an imminent danger to the public health or safety.

If the supervising judge submits written objections, the Indiana Judicial Center must provide a full opportunity for adjustment, compromise or settling of all issues.

(c) If objections to an impending denial have been submitted, no settlement of the points of contention can be made, and the Indiana Judicial Center denies the application a second time, the supervising judge may request a hearing within thirty (30) days of the date the second denial is issued. The Indiana Judicial Center must provide the hearing, and the hearing must be conducted as described in section 14.

Section 11. Grounds for Denial

An application for certification may be denied for one (1) or more of the following reasons:

- (1) violation of any rule set forth in these rules by the program, its director, staff or governing body;
- (2) permitting, aiding, or abetting the commission of an unlawful act;
- (3) conduct or practices found by the Indiana Judicial Center to be harmful to the health or safety of any client in the program;
- (4) deviation by the program from the plan of operation originally certified which, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services being provided to clients;
- (5) previous denial or revocation of a certificate of approval;
- (6) failure of the applicant or holder of a certificate of approval to cooperate with the Indiana Judicial Center in connection with the certification process or an investigation; or

(7) failure of the applicant or holder of a certificate of approval to provide accurate or reliable information (including the omission of information) on the application or regarding the program's administration operations or service delivery practices.

Section 12. Suspension and Revocation Procedures

(a) The Indiana Judicial Center may suspend or revoke the certificate of a certified program for any reason enumerated in section 13. If the Indiana Judicial Center determines that any certified program may have committed an act, or may have engaged in conduct or practices justifying revocation of its certificate under these rules, the Indiana Judicial Center must, by certified mail, return receipt requested, notify the supervising judge that the Indiana Judicial Center has requested a hearing under section 14(c) to determine the issue of revocation of the program's certificate. Notice of the request for hearing must contain a statement of the matters of law and of fact to be determined at the hearing.

(b) The Indiana Judicial Center may, without notice, suspend any certificate simultaneously with the institution of proceedings, under subsection (a), if the Indiana Judicial Center determines that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of all hearings, including judicial review thereof, unless sooner withdrawn by the Indiana Judicial Center or dissolved by a court of competent jurisdiction.

(c) Whenever the Indiana Judicial Center determines that any reason exists justifying the revocation of a program's certification, the Indiana Judicial Center must observe the procedures required in section 14.

Section 13. Grounds for Revocation

The Indiana Judicial Center may revoke any certificate issued under these rules, under the regulations that were in effect prior to these rules, or under 440 IAC 2-3 before its repeal for any of the following reasons:

- (1) violation of any rule set forth in these rules by the program, its director, staff, or governing body;
- (2) permitting, aiding, or abetting the commission of an unlawful act;
- (3) conduct or practices found by the Indiana Judicial Center to be harmful to the health or safety of any client in the program;
- (4) deviation by the program from the plan of operation originally certified which, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services being provided to clients;
- (5) failure of the applicant or holder of a certificate of approval to cooperate with the Indiana Judicial Center in connection with the certification process or an investigation; or
- (6) failure of the applicant or holder of a certificate of approval to provide accurate or reliable information (including the omission of information) on the application or regarding the program's administration operations or service delivery practices.

Section 14. Hearing Procedures

(a) All hearings held to determine issues relating to the denial of an application for certification or recertification or the revocation of a certificate must follow the procedures described in this section.

(b) A supervising judge who submitted written objections to a denial of an application under section 10(b) may file a request for a hearing.

- (1) The request must be in writing and must state the reason for the request.
- (2) The request may not include any reasons that were not included in the objections submitted under section 10(b).
- (3) The request must be filed with the Indiana Judicial Center within fifteen (15) days after the second denial of the application under section 10(c).

(c) Within thirty (30) days after a request for a hearing has been filed with the Indiana Judicial Center, the Court Alcohol and Drug Program Advisory Committee (“CADPAC”) shall conduct a hearing.

- (1) The hearing shall be conducted by a hearing examiner who is selected as follows:
 - (A) The executive director of the Indiana Judicial Center shall create a list naming three (3) judges who are members of the CADPAC but who are not members of the Board of Directors of the Judicial Conference. If the majority of judges serving on CADPAC are members of the Board of Directors of the Judicial Conference, the executive director may include one (1) or more judges who have served on CADPAC in the past on the list.
 - (B) In designating the three (3) judges the executive director shall consider availability, years of service on CADPAC and extent of participation.
 - (C) The supervising judge shall select one (1) name from the three (3) listed and advise the executive director of the name selected.
- (2) The hearing examiner shall conduct an informal hearing and is not required to follow any formal rules of evidence or procedure.
 - (A) At least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Indiana Judicial Center with written notice of the date, time and place of the hearing.
 - (B) The party requesting the hearing must show why:
 - (i) the application meets the certification requirements established by the Judicial Conference of Indiana; or
 - (ii) revocation of the certificate is justified.
 - (C) Either party may submit supporting evidence, if any.
 - (D) The hearing examiner shall make an electronic recording of the hearing and may have a written transcript prepared of the electronic recording. The supervising judge may obtain a copy of the electronic recording or the written transcript if a written transcript has been prepared from the Indiana Judicial Center upon payment of the cost of the copy.

(d) Within thirty (30) days after the hearing, the hearing examiner shall submit proposed written findings and recommendations to the supervising judge and the Indiana Judicial Center.

- (1) Objections to the findings and recommendations must be:
 - (A) in writing; and
 - (B) filed with the Indiana Judicial Center no later than fifteen (15) days after the date the proposed findings and recommendations were issued.
- (2) The findings and recommendations will be submitted to CADPAC unless the supervising judge gives written notice within the fifteen (15) day period that he or she has decided to withdraw the appeal.
- (3) If no objections are filed and CADPAC adopts the findings and recommendations as submitted without a hearing, those findings and recommendations become final.
- (4) If either the supervising judge or the executive director of the Indiana Judicial Center objects to the findings and recommendations, or if CADPAC proposes to modify or reject the findings and recommendations in the absence of any objections, CADPAC must conduct a hearing and provide the supervising judge and the executive director of the Indiana Judicial

Center with an opportunity to be heard orally concerning the findings and recommendations. At least ten (10) days before the hearing, the Indiana Judicial Center must give written notice of the date, time, and place of the hearing to the supervising judge.

(5) CADPAC's findings and recommendations must be adopted by a majority vote of the members present and voting.

(e) The supervising judge or the executive director of the Indiana Judicial Center may request the Board of Directors of the Judicial Conference to review CADPAC's decision.

(1) The request for review must be:

(A) in writing describing specific objections to the findings and recommendations adopted by CADPAC; and

(B) filed with the Indiana Judicial Center within fifteen (15) days after the date CADPAC renders its decision.

(2) At least ten (10) days before the Board meeting, the Indiana Judicial Center must give written notice of the date, time and place of the meeting to the supervising judge.

(3) The Board's findings and recommendations must be adopted by a majority vote of the members present and voting and are final.

(4) The Indiana Judicial Center shall notify the supervising judge of the Board's decision in writing within ten (10) days after the decision is made.

Section 15. Continuation of Programs

(a) Any program that at the time of revision of these rules is a holder of a current certificate of approval issued under the predecessor rules or regulations may continue operations with the approval of the Indiana Judicial Center until scheduled re-certification review by the Center is completed. All court alcohol and drug programs must comply with these rules as revised and amended.

(b) The Indiana Judicial Center may take the administrative actions necessary to ensure compliance with these rules, including, but not limited to:

(1) reviews;

(2) surveys; or

(3) inspections;

which may be scheduled or unscheduled, announced or unannounced.

(c) Any court that wishes to terminate its program must provide the Indiana Judicial Center a written Notice of Intent, at least thirty (30) days prior to termination of its program, outlining its intent and reasons for termination.

Section 16. Funding Authorization

No court-administered alcohol and drug service program that is not certified by the Indiana Judicial Center, and no applicant whose plan of operation does not comply with requirements for certification under these rules, shall be entitled to receive a favorable review or recommendation from the Indiana Judicial Center on any application for funding of services from state, federal, or private funding sources.

Section 17. REPEALED

Section 18. Program Goals and Objectives

Each certified program shall have a written statement of goals and objectives that clearly reflects the program's philosophy and guides the operation of the program and the delivery of services. The statement shall be reviewed annually and revised as necessary.

Section 19. Eligibility and Non-Discrimination

(a) A program must have a written description of the criteria for the acceptance of substance use-involved offenders as clients who are eligible to receive one (1) or more services provided by the court program.

(b) A program must have and post in a conspicuous place a written policy of nondiscrimination that is provided to the client and addresses nondiscrimination on the basis of each of the following:

- (1) race;
- (2) religion;
- (3) gender;
- (4) ethnicity;
- (5) age; and
- (6) disabilities.

(c) A program must have a form used to inform the client of the non-discrimination policy. The form must have a signature line or a signature page for the client to indicate that the client has been provided a copy of the form and agrees to comply with the non-discrimination policy. The program must place the signed form or signature page in the client's record.

Section 20. Client's Rights and Procedures

(a) A program must have written policies and procedures that ensure that all clients are informed of their rights during the orientation process. The program shall ensure that all individuals participating in the program are given a written statement of client rights and an explanation of those rights.

(b) Each client has the following rights:

- (1) the right to confidentiality under federal and state laws relating to the receipt of services;
- (2) the right to be informed of the various steps and activities involved in receiving services;
- (3) the right to humane care and protection from harm, abuse and neglect;
- (4) the right to contact and consult with an attorney of the client's choice at the client's expense; and
- (5) the right to make an informed decision whether to participate in the program or refuse participation and be sent back to the referring court. The client's consent to receive program services must be in writing and included in the client's record.

(c) A program must have a procedure for the review, determination, and amelioration of alleged violations of a client's rights. The procedure must be established by policy in accordance with the following:

- (1) Alleged violations of a client's rights are investigated through the use of an established grievance procedure.
- (2) The results of the investigation are:
 - (A) entered in the client's record; and
 - (B) if substantiated, entered into the personnel file of the staff member(s) involved.

(d) A program must have a form to inform each client in writing of the client's rights described in subsection (b). The form must contain a signature line or a signature page for the client to indicate that the client has been provided a copy of the form and understands the information described in the form. The program must place the signed form or signature page in the client's record.

Section 21. Client Intake and Orientation

(a) A program must have and observe written policies and procedures for client intake and orientation that inform the client in writing of:

- (1) the rules governing the client's conduct and behavior that could result in disciplinary action or discharge;
- (2) the hours during which services are provided;
- (3) the financial arrangements including services to be provided, the rate for the services, a reasonable projection of the time for which services will be provided and the conditions of payment; and
- (4) the program's grievance procedures, including the procedure for the review, determination, and amelioration of alleged violations of a client's rights, discussed in Section 20(c).

(b) The program must document compliance with subsection (a) in the client's record.

Section 22. Client Assessments

(a) A program must have written policies and procedures for scheduling and conducting client substance abuse assessments that require that:

- (1) Assessment staff must use a form that contains all the information described in subsection (b). The completed form must be maintained in the client's record.
- (2) The assessment must result in a referral that is supported by the evidence obtained during a personal interview with the client.
- (3) Portions of the form may be completed by the client at the discretion of the program director.
- (4) The procedure specifies the period of time, not to exceed six (6) weeks, that may pass between the date the judge orders the person to participate in the program and the date the program conducts the assessment.
- (5) The procedure specifies the length of time that the program regularly sets aside for a client assessment appointment.

(b) The substance abuse assessment must include information about the following:

- (1) statement of the presenting problem, including the client's version;
- (2) social and peer group;
- (3) military service history;
- (4) financial status;
- (5) alcohol and drug use of family members and attitudes toward such use;
- (6) occupational and educational status;
- (7) legal history and current legal status;
- (8) history of medical problems;
- (9) history of mental health problems;
- (10) current thoughts of suicide or homicide;
- (11) family history and environmental setting from which the client comes; and
- (12) an alcohol and drug use history of the client, which includes:
 - (A) substances used, including prescription and over-the-counter drugs;
 - (B) year of first use of each substance;

- (C) substances within the last forty-eight (48) hours;
- (D) substances of preference;
- (E) frequency of use of each substance;
- (F) previous occurrences of overdose, withdrawal, or adverse drug reaction;
- (G) method of administration of each substance; and
- (H) history of previous substance abuse treatment received.

(c) Except as provided in subsection (e), the program must develop for each client a written individual service contract (“ISC”) that identifies and responds to the evidence and recommendations determined during the substance abuse assessment. The procedure for developing the ISC must meet the following requirements:

- (1) The ISC is developed by an assessment staff member.
- (2) The ISC must state:
 - (A) the evidence obtained during the assessment;
 - (B) the recommendations supported by the evidence;
 - (C) the requirements and expectations for satisfactory completion of the contract by the client; and
 - (D) the consequences for failure to complete the contract satisfactorily.
- (3) The ISC must be signed by the client and by an assessment staff member acknowledging that the client has participated in its development and has received a copy.
- (4) The individual service contract is maintained in the client's record.

(d) Changes to an individual service contract may be made by a professional staff member of a program and must be documented in the client’s record.

- (e) A program is not required to develop a new individual service contract if:
 - (1) the program is only implementing or monitoring the implementation of an individual service contract on behalf of another court program; and
 - (2) the individual service contract is available to the implementing court program.

Section 23. Client Privacy

The privacy of each client shall be respected to the maximum extent feasible at each program. At a minimum a program must:

- (1) use private space for conducting intake, orientation, assessment, case management, and education appointments; and
- (2) specify in policies and procedures how client privacy is maintained with regard to visitors and other non-program personnel.

Section 24. Confidentiality of Client Records

(a) A program must have written policies and procedures conforming to applicable state and federal laws that ensure the confidentiality and security of client records. The policies and procedures shall at a minimum:

- (1) comply with all federal and state laws, including federal rules pertaining to the confidentiality of alcohol and drug abuse patient records (42 CFR Part 2);
- (2) address any conflicts between federal and state law;
- (3) address disclosure of information with regard to minor clients and incompetent or deceased clients;
- (4) address disclosure of information to the following:

- (A) client's family or other contact person designated by the client;
 - (B) third party payers;
 - (C) legal counsel;
 - (D) employers;
 - (E) judicial officer;
 - (F) probation department;
 - (G) prosecutor;
 - (H) addiction treatment services provider; and
 - (I) community corrections;
- (5) address disclosure without client consent including but not limited to the following:
- (A) medical emergencies;
 - (B) research, audit, and evaluation;
 - (C) legal orders and subpoenas; and
 - (D) investigation and prosecution of clients for alleged violations, including child abuse and neglect;
- (6) address the use of a valid written consent for disclosure of client information and forms used for making disclosure;
- (7) address storage and disposal of case records in compliance with Indiana Supreme Court Administrative Rule 7;
- (8) identify the person(s) responsible for authorizing disclosure of confidential information;
- (9) require documentation in the client record to support all information disclosed; and
- (10) address a client's request to review the client's case record. A client's review of the client's case record shall be recorded in the case record. Any denial of a client's request to review the case record shall be recorded in the case record, together with the reasons for denial of the review. By policy the supervising judge may permit the withholding from the client all or part of the client's record, including if:
- (A) withholding is necessary to protect the confidentiality of other sources of information;
 - (B) it is determined that the information requested may result in harm to the physical or mental health of the client or another person;
 - (C) the consent was not given freely, voluntarily, and without coercion; or
 - (D) granting the request will cause substantial harm to the relationship between the client and the program or to the program's capacity to provide services in general.

(b) A program must have a release of information form to inform each client in writing of the program's policies and procedures described in subsection (a), and to obtain the client's consent for the release of confidential information to specified individuals for certain purposes. The form must meet the following requirements:

- (1) contain a signature line for the client to indicate that the client understands the rights described in the form;
- (2) contain a signature line for a witness; and
- (3) any blank lines remaining after the form has been completed must be crossed out or marked "NA" to ensure the forms cannot be altered after being signed by the client.

(c) The program must place the form with the client's original signature or a facsimile copy of the form in the client's record.

Section 25. Case Management

(a) A program must have written policies and procedures for recording client progress in the client record.

(b) The client record must include progress notes that:

- (1) are filed or maintained in chronological order and contain the date, and identifies the staff member making the entry; and
- (2) document any of the following:
 - (A) relevant contact(s) with the client; and
 - (B) relevant contact(s) with an individual or an agency that includes a reference to the client.

(c) The program must monitor the progress of each client in satisfactorily completing the client's individual service contract and other requirements governing the client's conduct or performance during participation in the program. The monitoring procedure must, at a minimum, be capable of determining clients who have:

- (1) failed, as scheduled or required, to comply with the individual service contract;
- (2) failed to comply with the rules of conduct governing the client's participation in the court program or of a service provider to which the client was referred; or
- (3) been successfully or unsuccessfully discharged or terminated by a service provider to which the client was referred.

(d) The program shall establish written policies and procedures for:

- (1) terminating a client's court imposed obligation to participate in the court-administered alcohol and drug services program; and
- (2) documenting that the client has:
 - (A) successfully complied with the individual service contract; or
 - (B) violated any requirement of the individual service contract.

Section 26. Facilities

(a) All facilities where program services are provided must be located, constructed, equipped, and operated in a manner that protects and preserves the privacy, confidentiality, health, and safety of program clients and staff.

(b) The program's facilities and operations must conform to all applicable federal, state, or local health and safety codes, including fire protection.

(c) All facilities must maintain recent documentation of compliance with all applicable codes.

(d) In order to ensure client confidentiality, the program's facilities, including waiting rooms, offices and group areas must be arranged in a way that minimizes disclosure to the general public of the person's status as a client of the alcohol and drug services program. The program must have written policies and procedures explaining how they comply with this subsection.

(e) The facilities must provide adequate space for storage of client records and permit client records to be secured properly at all times as required under 42 CFR section 2.16. The program must have written policies and procedures that govern access to and use of these written records and conform to federal regulations.

Section 27. Program Management & Oversight

(a) A program must have a governing body, which is the individual, board, or other entity that has ultimate responsibility for the management, operation, and control of the program. The program shall maintain on file a description of the members of the governing body.

(b) The governing body must formally designate a program director to be responsible for the daily operation and administration of the program.

(c) A program must have specific, written policies and procedures for conducting day-to-day program activities. These written policies and procedures must meet the following criteria:

(1) The program's operational and administrative structure is fully documented by organizational charts that depict programmatic lines of authority, identify all staff positions, and accurately reflect current program practice.

(2) The policies and procedures manual describes the staff functions and the procedures by which the principles and guidelines established by the governing body will be implemented into program operations.

(3) The policies and procedures manual is updated as needed, but at least once every two (2) years.

(4) The policies and procedures manual is available to the governing body and staff.

(d) The program director must do the following:

(1) prepare a written annual report that includes:

(A) a summary of the program's activities and accomplishments;

(B) a summary of the program's user fee fund, including beginning and ending balances and a summary of income and expenditures; and

(C) documentation of any certification reviews or visits, if any, for the preceding year; and

(2) submit a copy of the annual report to the Indiana Judicial Center no later than ninety (90) days after the close of the program's reporting period.

(e) Any time a program refers a client to a provider for addiction treatment services not provided by the program, the program must do the following:

(1) determine annually that the addiction treatment services provider is certified by the division of mental health and addiction, or an equivalent certifying agency if the addiction treatment services provider is located out-of-state or is a federal hospital, and obtain a copy of any out-of-state providers' certifications; and

(2) have a referral arrangement with the addiction treatment services provider that at a minimum includes procedures for the following:

(A) initiation and acceptance of referrals;

(B) exchange of client-related information; and

(C) post-referral reporting by the addiction treatment services provider that enables the program to perform its client-monitoring responsibilities.

(f) The referral arrangements with an addiction treatment services provider must be documented in a written referral agreement if the court program has referred or plans to refer ten (10) or more clients to the provider for treatment in any calendar year.

(g) A program must display its certificate of approval issued by the Indiana Judicial Center authorizing it to provide program services in a prominent place in the program office. A copy must be kept on file in the office of the Indiana Judicial Center.

Section 28. Fiscal Management

(a) The program must have developed and implemented an accounting system with the capability to ensure that financial transactions are thoroughly documented and handled in a uniform and consistent manner.

(b) The program must have a current budget.

(c) The program must have a documented schedule of fees for each certified service and procedures to ensure payments for services.

(d) The cost to the client for all certified services combined that are provided under any one (1) cause number, including the cost of any education services whether they are provided directly, by contract, or by referral, may not exceed the amount permitted under IC 12-23-14-16.

(e) When transferring a case to another court program, a program may charge a client a transfer fee of up to \$100. The receiving program may then charge the difference between the transfer fee and the statutory user fee cap.

(f) The program must have effective cash handling controls and procedures that prevent theft of funds.

(g) Money a program receives from a city or town user fee fund must be used to fund program services in compliance with IC 33-37-8-3. Money a program receives from a county user fee fund must be used to fund program services in compliance with IC 33-37-8-5.

(h) The program must have written policies and procedures that address this section.

Commentary on Section 28(d). The reference to “one (1) cause number” in this section is for the purpose of determining when an individual may be charged the court alcohol and drug program user fee. It is not intended to have any effect on how cases are counted. A program is not required to charge a new user fee on the basis of a client having an additional cause number, but the program may charge an administrative or case management fee for the new cause number in the event that additional services are required such as a new assessment or if compliance reporting will need to go to an additional court.

Commentary on Section 28(e). If the transferring program has charged more than \$100, the transferring program must refund the amount over \$100 before transferring the case to the receiving program.

Section 29. Personnel Management

(a) The program shall develop and adhere to a written personnel policies and procedures manual, which shall contain at a minimum:

- (1) employment procedures;
- (2) program rules for professional conduct;
- (3) a requirement that staff members adhere to the code of judicial conduct and to a code of professional ethics that is recognized by the Indiana Judicial Center; and
- (4) wages and benefits.

(b) The program shall have a system to verify credentials and qualifications of staff, volunteers, and consultants.

(c) The program shall keep personnel and other records, which contain information necessary to carry out the personnel management function, including but not limited to:

- (1) application or resume;
- (2) credentials, when applicable;
- (3) verification of qualifications, licensure, and credentials, when applicable;
- (4) documentation of program orientation for newly hired staff or volunteers;
- (5) position changes;
- (6) documentation of in-service and continuing education activities;
- (7) documentation of commitment to adhere to ethics requirements; and
- (8) a job description, which shall include, at a minimum:
 - (A) job title;
 - (B) qualifications;
 - (C) credentials, if applicable;
 - (D) duties and responsibilities; and
 - (E) reporting and supervisory responsibilities.

Section 30. Professional Requirements

(a) A program must have written policies and procedures describing staff qualifications.

(b) All professional staff members hired after December 31, 2004, must obtain and maintain a Court Substance Abuse Management Specialist (CSAMS) credential. The Indiana Judicial Center must award the CSAMS credential to each program staff member who provides written evidence of meeting the following minimum requirements:

- (1) Education requirement. A baccalaureate degree from a college or university that is accredited by the Council for Higher Education Accreditation.
- (2) Experience. At least one thousand five hundred (1500) hours, equivalent to nine (9) months of full-time experience in the assessment of people with substance abuse problems. This experience must include developing individual service contracts or treatment plans.
- (3) Supervised practical training. At least five hundred (500) hours of direct supervision in the areas of assessment, referral and case management of substance abuse clients, with a minimum of one hundred (100) hours in the area of assessment of clients. The practical training must be supervised by a person who has at least two (2) years experience in the criminal justice field and one (1) of the following:
 - (A) a current CSAMS credential;
 - (B) assessment staff status maintained under subsection (e);
 - (C) a current CADAC I or CADAC II certificate from ICAADA or the equivalent credential from NAADAC or ICRC; or
 - (D) a current ARMS II certificate from ICAADA.
- (4) Training. Seventy (70) clock hours of Indiana Judicial Center-approved training within the last five (5) years in substance abuse assessment, referral and case management of clients which must include each of the following:
 - (A) twelve (12) hours of criminal justice training or certification as an Indiana probation officer;
 - (A) other training, including:
 - (i) twenty-four (24) hours of substance abuse assessment and interview training; twenty-four (24) hours of alcohol and drug specific training; four (4) hours of training in State and Federal laws on confidentiality; three (3) hours of communicable disease training; and three (3) hours of clinical and judicial ethics training; or
 - (ii) a current certificate from the Indiana Counselors Association on Alcohol and

Drug Abuse as a CADAC I, CADAC II, or ARMS II, or the equivalent credential from NAADAC or ICRC.

(5) Code of ethics. The applicant must submit a signed statement indicating that the applicant understands and will adhere to the CSAMS Code of Ethics and the Code of Judicial Conduct.

(6) Age. The applicant must be at least twenty-one (21) years of age.

(7) Application and written test. The applicant must do the following:

(A) submit a CSAMS application with all required documentation to the Indiana Judicial Center, Court Alcohol and Drug Program, Attention: CSAMS Credential;

(B) submit a testing and certification fee of fifty dollars (\$50) in the form of a cashier's check, money order, or claim voucher made payable to the Indiana Judicial Center on or before the date of the test; and

(B) take and pass each section of the CSAMS written test.

(C) The test may be taken a maximum of three (3) times and will be offered quarterly.

(D) Individuals hired after December 31, 2004, will be allowed one (1) year from the date of first hire as a professional staff member to complete the requirements for the CSAMS credential.

(c) All professional staff members hired after June 30, 2004, including program directors, must attend a staff orientation program conducted by the Indiana Judicial Center within one (1) year from the date that the staff person is first employed.

(d) A professional staff member hired before January 1, 2005, is not required to obtain the CSAMS credential, but may choose to do so. The Indiana Judicial Center must award the credential to each program staff member hired before January 1, 2005, who provides written evidence of meeting the following minimum requirements:

(2) Training. The applicant must meet one (1) of the following:

(A) the training requirements described in subsection (b)(4)(A) and (b)(4)(B);

(B) achievement of assessment staff status described in subsection (e) and each of the following:

(i) four (4) hours of training in State and Federal laws on confidentiality;

(ii) three (3) hours of communicable disease training; and

(iii) three (3) hours of clinical and judicial ethics training.

(2) Code of ethics. The applicant must submit a signed statement indicating that the applicant understands and will adhere to the CSAMS Code of Ethics and the Code of Judicial Conduct.

(3) Age. The applicant must be at least twenty-one (21) years of age.

(4) Application and written test. The applicant must do the following:

(A) submit a CSAMS application with all required documentation to the Indiana Judicial Center, Court Alcohol and Drug Program, Attention: CSAMS Credential; and

(B) take and pass each section of the CSAMS written test.

(C) The test may be taken a maximum of three (3) times and will be offered quarterly.

(D) Individuals choosing to apply for a CSAMS credential under this subsection must complete the requirements before January 1, 2008.

(E) An individual who fails the written test may attend additional training provided by the Indiana Judicial Center before retaking the test.

(F) The Indiana Judicial Center may offer one (1) or more pilot versions of the CSAMS written test prior to January 31, 2005. For any pilot version of the CSAMS test that is offered, the Indiana Judicial Center may accept all passing scores to determine compliance with the testing requirement. If an individual does not pass a pilot test, the pilot test will not count towards the maximum number of times the individual may take the test.

(e) A professional staff member who was hired before January 1, 2005, performs client assessments, and does not have a current CSAMS credential must have assessment staff status as follows:

(1) The staff member must provide the program with written evidence of at least one (1) of the following:

(A) a baccalaureate degree in a behavioral science and thirty (30) hours of alcohol/drug specific training, and thirty (30) hours of assessment/interviewing training;

(B) the equivalent of two (2) years of full-time paid experience in the human service area and thirty (30) hours of alcohol/drug specific training, and thirty (30) hours of assessment/interviewing training; or

(C) a current certificate from the Indiana Counselors Association on Alcohol and Drug Abuse as a certified alcohol and drug abuse counselor or the equivalent certificate from NAADAC or ICRC.

(2) Individuals will be allowed one (1) year cumulatively as an assessment staff person to achieve assessment staff status.

(f) Continuing education.

(1) Each professional staff member must document the following continuing education for each calendar year:

(A) twenty (20) hours of substance abuse or case management training; and

(B) five (5) hours training related to issues specific to the criminal justice system.

(2) To maintain a CSAMS credential or assessment staff status, a professional staff member must document compliance with subdivision (1) for each calendar year after the year in which the CSAMS credential or the assessment staff status was obtained.

(3) Each program director must:

(A) approve and maintain documentation of the continuing education hours in the staff member's personnel files; and

(B) no later than February 1 of each year, notify the Indiana Judicial Center of any staff member who failed to fulfill continuing education requirements for the previous year, the reason for the failure, and the corrective action to be taken.

(g) Reinstatement of professional staff members. A person who is no longer employed by a court alcohol and drug program as a professional staff member may allow the person's CSAMS credential or assessment staff status to become inactive for a period of not more than three (3) years. In order to reinstate the person's CSAMS credential or assessment staff status, the person must do each of the following:

(1) document that the person obtained twenty (20) hours of substance abuse or case management training and five (5) hours of criminal justice training within the year prior to being rehired as a professional staff member; and

(2) attend a staff orientation program conducted by the Indiana Judicial Center within one (1) year from the date that the person resumes employment as a professional staff person.

Commentary on Section 30(b). The CSAMS credential is intended to provide a standard for competence and professional status. The CSAMS test will contain a section that is specific to working for a court program, a section that tests substance abuse knowledge, and a section related to conducting assessments and referrals. No other credential is designed to address knowledge of the Rules for Court-Administered Alcohol and Drug Programs.

Commentary on Section 30(c). Administrative staff members are encouraged to attend staff orientation.

Commentary on Section 30(d). The CSAMS credential is not mandatory for any court program staff hired before January 1, 2005. However, in recognition of the fact that many court employees will want to obtain the CSAMS credential in order to establish that they meet this new uniform standard of competency, the Indiana Judicial Center provides a procedure in this subsection for individuals to obtain the CSAMS voluntarily. The Indiana Judicial Center encourages supervising judges to acknowledge the efforts of staff members who choose to meet this standard, by adopting appropriate incentives or rewards.

Commentary on Section 30(f). A professional staff member must provide the program director with evidence of completion of the continuing education requirements. An individual who is no longer employed by a court alcohol and drug program, but who is documenting continuing education in order to maintain a CSAMS credential or assessment staff status shall do the following: (1) maintain records documenting compliance with continuing education requirements from the time that the person leaves the employment of a court program until the time the person resumes working for either the same or a different court program; and (2) provide the documentation to the director of the court program that is hiring or rehiring the staff member.

Section 31. Substance Abuse Education Standards

(a) Except as provided in subsection (h), this section applies to all substance abuse education courses that a court alcohol and drug program requires a client to complete, regardless of whether the court program offers the substance abuse education course directly to the client, by contract, or by referral.

- (b) A program must have written policies and procedures describing:
- (1) the different substance abuse education courses it provides to clients; and
 - (2) the procedure for determining placement of a client into a course.

(c) Except as provided in subsection (d), for each substance abuse education course a program offers, the program must do each the following:

- (1) have a written curriculum that includes:
 - (A) a course syllabus that provides detailed course information;
 - (B) course lesson plans or lesson outlines;
 - (C) a list of supporting materials including handouts, videos, class exercises, individual or group activities, and other materials as appropriate;
 - (D) general references; and
 - (A) research references, if subsection (f) requires that the course be documented by research;
- (2) submit the curriculum to the Indiana Judicial Center for evaluation and approval; and
- (3) maintain a copy of the Indiana Judicial Center's approval with the course curriculum.

(d) The Indiana Judicial Center will provide programs with a list of approved substance abuse education courses upon request. If a program intends to offer a course from this list, the program is not required to follow the steps required under subsection (c). Instead the program must notify the Indiana Judicial Center of the approved curriculum it will offer and the Indiana Judicial Center will provide the program with a copy of the appropriate approval.

(e) Whenever the Indiana Judicial Center denies a program's request for approval of a substance abuse education course curriculum under subsection (c), the Indiana Judicial Center must provide a notice to the program that includes each of the following:

- (1) a brief statement explaining the reasons for the denial;

- (2) a statement that the decision to deny approval of the curriculum will become final unless the program submits written objections following the procedure outlined in section 10; and
- (3) a statement informing the program that it may request a hearing on the issues as described in sections 10 and 14.

(f) The following three (3) substance abuse education courses are authorized for court alcohol and drug program clients:

- (1) Substance Abuse Information. A course that provides clients with at least eight (8) hours of information on substance abuse issues.-
- (2) Basic Substance Abuse Education. A course that includes at least ten (10) hours of cognitive-based substance abuse education that:
 - (A) is documented by research; and
 - (B) contains a substance abuse self-assessment module.
- (3) Advanced Substance Abuse Education. A course that includes at least twenty (20) hours of cognitive-based substance abuse education that:
 - (A) is documented by research;
 - (B) contains a substance abuse self-assessment module; and
 - (C) is designed primarily for substance abusers with some symptoms indicating a progression toward dependence.

(g) The program may employ program staff or contractors to teach substance abuse education courses provided the individual meets the requirements for a court substance abuse instructor. The program director must approve the instructor's qualifications. A court substance abuse instructor must meet each of the following minimum qualifications:

- (1) substance abuse expertise demonstrated by any of the following:
 - (A) designation as a professional staff member under Section 30;
 - (B) certification by the Indiana Counselors Association of Alcohol and Drug Abuse (ICAADA); or
 - (C) other substance abuse qualifications, including personal experience or certification by another professional organization, that the program director considers to be acceptable;
- (2) criminal justice expertise, which includes knowledge of and experience dealing with courts and the criminal justice system, and
- (1) training and experience as a teacher or instructor.

(h) Subsections (c), (d), (e), (f), and (g) do not apply when a program director refers a client or approves a referral of a client to a substance abuse education course that is located:

- (1) in a county that does not have a certified court alcohol and drug program; or
- (2) out-of-state.

Commentary on Section 31(b). The program director is encouraged to establish general criteria in consultation with the supervising judge for determining the appropriate education based on the level of risk presented by the client during the assessment. In most cases the person conducting the assessment will have the discretion to assign the appropriate education for a particular individual based on consideration of the general criteria established by the program director and any relevant information obtained during the assessment. This approach may lead to a situation where a first-time offender, depending on the circumstances, could be assigned to a basic or advanced substance abuse education course.

Commentary on Sec. 31(c). The Court Alcohol and Drug Program Advisory Committee has adopted a checklist for IJC to use to determine whether a curriculum meets the standards established by the

rules. For courses that are required to be documented by research pursuant to subsection (f), subsection (c)(1)(E) does not require outcome-based research performed by a program to gauge the effectiveness of the curriculum used by the program, although outcome-based research would be a best practice. The research references required by subsection (c)(1)(E) include journal articles, case studies, and additional references that provide qualitative or quantitative data relevant to the subject matter of the curriculum.

Commentary on Section 31(f). Based upon the assessment, substance abuse information may be appropriate for certain court alcohol and drug program clients. However, substance abuse education is different in that it examines and challenges the thought process of offenders and concentrates on behavior modification, including identifying the actions the client would need to take to prevent recidivating. Substance abuse education also provides the client with an opportunity for a substance abuse self-assessment. The twenty (20) hour substance abuse education course is specifically structured and designed for those clients who have been identified, through the assessment process as needing a course of instruction that is designed primarily for substance abusers with some symptoms indicating a progression toward dependence. Cognitive-based education approaches in the substance abuse field are characterized by the following:

- 1. Collaboration between instructor and clients to build trust.*
- 2. Active client participation.*
- 3. Self-guided discovery and empirical testing of beliefs.*
- 4. Highly structured and focused content.*
- 5. Concrete problem-solving techniques for alcohol or drug problems.*

Commentary on Section 31(h). The exception created in subsection (h) is intended to address the rare occasion when a program director refers a small number of individuals to an education program not routinely used by the program director that is outside of the county or state. In those rare instances, the program director should not be discouraged from using an otherwise appropriate resource merely because of the effort required to collect and submit curriculum information. However, this subsection is not intended to permit a program director to avoid complying with the standards by routinely referring clients to a program that is not required to meet these standards.

Section 32. Contractors

(a) This subsection applies to all court alcohol and drug programs. A sponsoring court or its court program may contract with a person, firm, corporation, association, or governmental entity, including another court or court program, to provide one (1) or more services for the court program except eligibility determination and case termination. A contractor must possess and demonstrate the capability to provide contractual services for the program in the manner intended and meet all requirements contained in IC 12-23-14 and these rules that apply to the services the contractor will provide.

(b) This subsection applies to all court alcohol and drug programs. If a program contracts for one (1) or more services with a person, the contractor or any person performing services under the contract may not:

- (1) be an employee of the program; and
- (2) receive compensation from the program for services other than the contracted services.

(c) This subsection applies to a contract-based program that is operated by an addiction treatment services provider. The program must have written policies and procedures that, at a minimum, meet the following requirements:

(1) A judge ordering a defendant to participate in the program shall inform the defendant of each of the following:

(A) The court program is operated by an addiction treatment services provider who provides the court program services and also provides treatment at an additional cost.

(B) If treatment is recommended, the defendant will be provided with a list of acceptable treatment providers and the defendant has a right to select any provider on that list without coercion or fear of retaliation.

(C) The defendant has the right to a reasonable period of time of at least seventy-two (72) hours to gather information about the various treatment providers on the list before deciding which provider to select.

(D) The defendant has a right and an obligation to report to the court or to the Indiana Judicial Center any pressure to select the contract program's agency as the defendant's treatment provider.

(E) Any treatment options that may be available for free or at a reduced cost for indigents or any funding options that may be available to pay for or offset the cost of treatment for indigents.

(2) The program director of a contract based court alcohol and drug program that provides treatment to any of its court-ordered clients shall do the following:

(A) For each court-ordered client who is referred to treatment, provide a list of acceptable treatment providers located within the county and surrounding counties.

(B) Give the client a reasonable period of time of at least seventy-two (72) hours to consider which treatment provider to select before requiring the client to report the client's choice back to the program.

(C) Assure the client in writing that in monitoring the client's compliance the client will gain no favor by selecting the agency with the court contract and the client will not lose favor by selecting another agency.

(D) Permit a court ordered client to propose a treatment provider not represented on the list provided the client proposed provider meets the minimum standards required by the Indiana Judicial Center and the Division of Mental Health and Addictions, and is able to provide the required treatment.

(E) Report every six (6) months to the supervising judge how many clients were referred to the program, and of those referred to the program how many were referred to treatment, and how many were ultimately referred to each different treatment provider on the list, including how many resulted in self referrals for the program and how much revenue was generated by those self referrals.

(B) File a disclosure in compliance with IC 35-44-1-3(d).

Commentary on Section 32(c). Under this subsection the client has a right to at least seventy-two (72) hours to gather information and make a decision as to what treatment provider to use. The purpose of this section is not to create delay, but rather to insure that the client does not feel undue pressure to use the treatment services provided by the contract-based program and to protect the supervising judge and the program from any appearance of a conflict of interest. If the client indicates that the client is ready to make a decision in less than seventy-two (72) hours, the program may record and act on that decision at an earlier time, provided the program obtains the client's signature indicating that the client was offered up to seventy-two (72) hours to make a decision.

Commentary on Section 32(c)(2)(E). Upon request the Indiana Judicial Center will provide technical assistance to a contract-based program that must report the information required under subsection (c)(2)(E) as needed to create the capacity to track the information required.

END